

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

FILED

UNITED STATES DISTRICT COURT

FEB 13 2023

700 Conley Lake Rd
Deer Lodge MT 59722

for the

EASTERN

District of

CALIFORNIA

FRESNO

Division

CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
DEPUTY CLERK

#29033
BENJAMIN KARL RAY BUNTON PROSE

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

CITY OF MENDOTA POLICE DEPT. CHIEF
OFC. WORKINTON, OFC. RENTERIA, OFC. AMADOR
CHRISTIAN GONZALEZ, OFC. BENITEZ

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Case No. 1:23-cv-211-SAB(PC)
(to be filled in by the Clerk's Office)

RECEIVED

FEB 17 2023

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY: DEPUTY CLERK

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. THE PARTIES TO THIS COMPLAINT

A. The Plaintiff(s)

Name: BENJAMIN KARL RAY BUNTON

All other names which you

are known

BENJAMIN KARL SMITH

ID NUMBER: 29033

CURRENT ADDRESS: 700 CONLEY LAKE ROAD

DEER LODGE, MT 59722

CURRENT INSTITUTION: MONTANA STATE PRISON

B. The Defendant(s)

Defendant No. 1

NAME: CITY OF MENDOTA POLICE CHIEF

JOB or TITLE: CHIEF OF POLICE / CODE ENFORCEMENT

Shield Number: UNKNOWN

Employer: City of MENDOTA

Address: 630 QUIENCE ST.

Mendota CA 93640

INDIVIDUAL and OFFICIAL CAPACITY

Defendant No. 2

NAME: OFFICER WORKINTON

JOB or TITLE: POLICE OFFICER

Shield Number: UNKNOWN

EMPLOYER: CITY OF MENDOTA

ADDRESS: 630 QUIENCE ST

MENDOTA CA 93640

INDIVIDUAL and OFFICIAL CAPACITY 2 of 11

Defendant No. 5

NAME: OFFICER BENITEZ

Job or Title: Police Officer

Shield Number: unknown

Employer: City of MENDOTA

Address: 630 Quince St.
Mendota CA 93640

Defendant No. 6

NAME: CHRISTIAN GONZALEZ

Job or Title: BUILDING INSPECTOR/CITY MANAGER

Shield Number: unknown

Employer: City of MENDOTA

Address: 630 Quince St.
MENDOTA CA 93640

Defendant No. 7

NAME: MARY LOU HERENDEZ

Job or Title: CITY CLERK

Shield Number: unknown

Employer: CITY OF MENDOTA

Address: 630 QUINCE ST.
MENDOTA CA 93640

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Defendant No. 3

Name OFFICER RENTERIA
 Job or Title (if known) POLICE OFFICER
 Shield Number UNKNOWN
 Employer CITY OF MENDOTA
 Address 630 QUIENCE ST.
MENDOTA CA 93640
City State Zip Code
☒ Individual capacity ☒ Official capacity

Defendant No. 4

Name OFFICER AMADOR
 Job or Title (if known) POLICE OFFICER
 Shield Number UNKNOWN
 Employer CITY OF MENDOTA
 Address 630 QUIENCE ST.
MENDOTA CA 93640
City State Zip Code
☒ Individual capacity ☒ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- ☐ Federal officials (a *Bivens* claim)
☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

FIRST Amendment: Liberty Clause
FIFTH Amendment: unlawful Arrest
EIGHTH Amendment: Cruel and unusual punishment
FOURTEENTH Amendment: Equal Protection Clause, DUE PROCESS CLAUSE

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

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- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

While working in their official capacity these police officers illegal forced me from home, falsely arrested me numerous times, Beat and tased me illegal and drug me through a park lot. Harassed and threaten my life and safety

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
☐ Civilly committed detainee
☐ Immigration detainee
☒ Convicted and sentenced state prisoner
☐ Convicted and sentenced federal prisoner
☐ Other (explain)

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.
These incidents occurred in the City of Mendota from 2011 to 2012. Then again in 2022

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

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C. What date and approximate time did the events giving rise to your claim(s) occur?

There are numerous reports, due to head injuries I can recall, but it started in the summer of 2011 and as recently as November 2022

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

I was being harassed, illegally arrest from late 2011 until September 2012. On September 3, 2012, two Mendota Police Officers beat me, tased me and be held at GUN POINT BY SEVERAL MENDOTA POLICE OFFICERS AND CHIEF OF POLICE AND GIVEN 15 MINUTE TO VACATE MY HOME. ~~ON~~ OFFICER WORICINTON, IN SEPTEMBER DURING TRANSPORTING ME TO FRESNO COUNTY JAIL, PULL OFF THE ROAD NEAR A ALMOND ORCHARD AND STATED, "IF I HAVE TO BRING BACK HERE, I'M GOING TO TAKE YOU IN ONE OF THESE ORCHARDS OR GRAPE FIELDS and put a bullet in your head". I left the state Sept 5 2012

V. Injuries If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.
HEAD AND NECK INJURIES WHICH CAUSED NERVE DAMAGE AND MEMORY LOSS. INJURIES TO LEGS, SHOULDERS, AND ARMS, LOSS OF PROPERTY. MENTAL AND EMOTIONAL DISTRESS

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

\$1.5 million U.S. DOLLARS FOR Physical Abuse, illegal ARRESTS. \$75,000 loss of property, mental and emotional distress. Any other relief deem fair and reasonable by the court.

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VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☐ Yes

☒ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

N/A

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☐ No

☐ Do not know

~~Exhaust~~ Claim did not occur
in jail or prison

If yes, which claim(s)?

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D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☐ Yes

☒ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☒ No

E. If you did file a grievance:

1. Where did you file the grievance? With the City of Mendota and its Police Dept. As well as presented the matters before the mayor and city Council

2. What did you claim in your grievance? Police Brutality, illegal eviction, ~~harassment~~ harassment, illegal arrest

3. What was the result, if any?

NO ACTION WAS TAKEN

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

Continue to protest to city manager/city Council until I was threaten with being shot to death

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F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

N/A

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

N/A

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

Didn't know I could take legal action until last year. Was unable to find an attorney

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

N/A

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A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) N/A

Defendant(s) N/A

2. Court (if federal court, name the district; if state court, name the county and State) N/A

3. Docket or index number N/A

4. Name of Judge assigned to your case N/A

5. Approximate date of filing lawsuit N/A

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition. N/A

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?) N/A

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment? N/A

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☐ Yes

☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s)

Defendant(s)

N/A

2. Court (if federal court, name the district; if state court, name the county and State)

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition

N/A

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

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IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 2/1/23

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

B-K.B.A
Benjamin Karl Ray Bunton
29033
700 CONLEY LAKE ROAD
DEER LODGE MT 93640
City State Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City State Zip Code

Telephone Number

E-mail Address

